

CA20N
H025
-81P76

3 1761 11894387 7

DEPOSITORY LIBRARY MATERIAL


PUBLIC ROAD ALLOWANCES:

A PROCEDURAL GUIDELINE



Ontario

Ministry of Housing



Digitized by the Internet Archive
in 2024 with funding from
University of Toronto

<https://archive.org/details/31761118943877>

CASPH
Hφ 25
-81P76

PUBLIC ROAD ALLOWANCES:

A PROCEDURAL GUIDELINE

May 1981

Prepared by Operations Review Section
Plans Administration Division



Ontario

Ministry of
Housing

Hon. Claude Bennett, Minister
R.M. Dillon, Deputy Minister

Additional copies available from:
Ontario Government Bookstore
880 Bay St.

Toronto, Ont. M7A 1N8

Price: \$2.00 payable in advance to
the Treasurer of Ontario

This guideline document has been
prepared for information only.
Consult your solicitor on any
legal question.

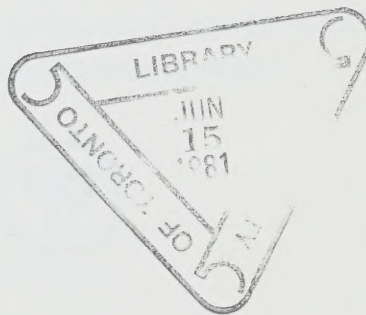


TABLE OF CONTENTS

	<u>PAGE</u>
1. INTRODUCTION	1
2. PROCEDURE FOR PASSING BY-LAWS	3
2.1 Proposal/Application	3
2.2 Municipal approval	4
(i) Local policy review	4
(ii) Agency review	4
(iii) County council consent	5
(iv) Regional or district council approval	5
(v) Public Notification	5
2.3 Adoption of the By-law by Municipal Council	6
2.4 Additional Approvals Required	6
(i) Minister of Transportation and Communications	6
(ii) Federal government clearance	6
(iii) Judicial approval	7
(iv) Ministry of Housing approval	7
2.5 By-law Registration	7
3. MINISTRY OF HOUSING APPROVAL	8
3.1 Introduction	8
3.2 Original Road Allowances on or Leading to Water	8
(i) Original survey	8
(ii) On or leading to water	8
(iii) Separate disposal by-law	9
(iv) Evaluation of application	9

3.3	Road Allowances in Registered Plans of Subdivision	11
	(i) Non-binding Plans	11
	(ii) A Judge's Order	11
	(iii) Section 443(8), The Municipal Act	11
	(iv) Evaluation of Application	12
3.4	Contents of Applications to the Minister	14
	(i) Applications for By-laws Under Section 443, The Municipal Act	14
	(ii) Applications for Consent Under Section 86, The Registry Act	14
3.5	Establishing Roads Less than 20 Metres in Width	17
	(i) The Legislation	17
	(ii) Evaluation of Application	17
	(iii) Application	18
4.	CLOSING ROADS IN UNORGANIZED TERRITORIES	18

APPENDICES

- A. Sample Public Notice
- B. Sample By-law Under Section 443 of The Municipal Act
- C. Sample Ministry of Housing Consent Under Section 86 of The Registry Act
- D. Sample Letter of Approval Under Section 450 of The Municipal Act

1. INTRODUCTION

A public road allowance or "public highway" as referred to in the legislation, is the right-of-way set aside for public roadway purposes in the province. Such rights-of-way may be created in a variety of ways. A network of public road allowances were laid out in the very first surveys of many parts of the province. Some of these allowances have never been required and have never been opened for travel. More recently, additional road allowances have been created through the development of land and the associated dedication of new roads. In addition, the redesign or improvement of the road network in some municipalities has involved the opening of new public highways and the closing of old rights-of-way.

Provincial legislation contains a number of provisions authorizing and guiding municipal councils in establishing, closing, altering and disposing of public highways. Section 443 of The Municipal Act enables municipalities to pass by-laws to make changes to the public highways in their jurisdiction. The procedures involved are contained in different sections of The Municipal Act and may vary depending on the type of municipality, type of road and type of change proposed. In some, but not all, cases, Ministry of Housing approval is required. The special circumstances requiring the approval of agencies other than the municipality are listed in Table 1.

This document has been prepared to bring together the various provisions and to explain the procedures to be followed in the approval of changes to public road allowances in different circumstances. In addition, the consideration given by the Ministry of Housing to applications for certain types of road closings and openings is elaborated.

TABLE 1

Road Changing By-laws Requiring Special Approval

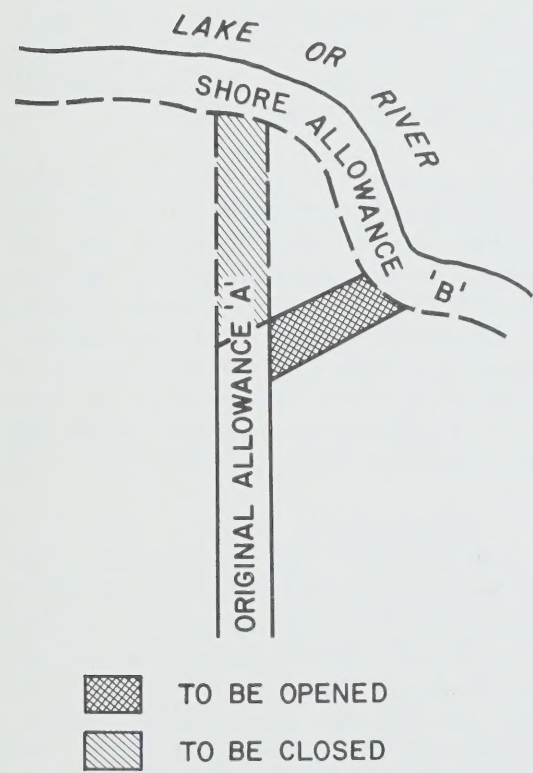
Type of Change	Type of Municipality	Approval Required	Statutory Provision*
Road closing	Area municipality	Region or District Council	Specific Region or District Act
Road closing	Township in a county	County council	S.443(6a,b&c)
Road closing	Township in unorganized territory	District judge	S.443(6)(a)
Road closing	Township separated from county	County judge	S.443(6)(b)
Opening, closing, diverting road connecting with provincial highway	All municipalities	Minister of Transportation and Communications	S.22(2) The Public Transportation and Highway Improvement Act
Any change that affects federal interest	All municipalities	Federal Government	S.443(4)
Diverting, closing, disposing road on original survey on or leading to water	All municipalities	Minister of Housing	S.443(3)
Diverting or closing road on registered plan of subdivision	All municipalities	Minister of Housing	S.443(8) or S.86 The Registry Act S.163 The Land Titles Act
Establishing a road less than 20m in width	All municipalities	Minister of Housing	S.450(2)
Road closing	Unorganized territory	Lieutenant Governor-in-Council	S.464

* Refer to The Municipal Act unless otherwise indicated.

2. PROCEDURE FOR PASSING BY-LAWS

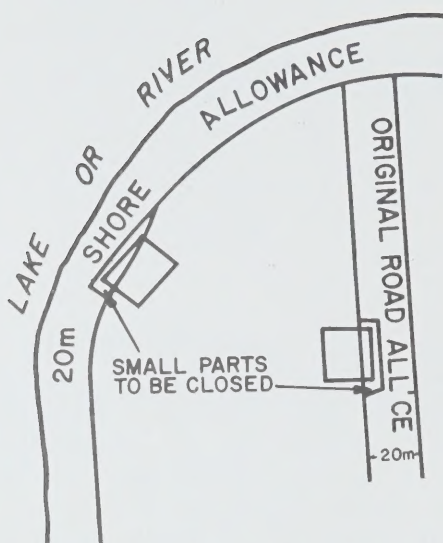
2.1 Proposal/Application

A proposal to alter an existing public road allowance is usually initiated by an abutting private landowner or by the municipality itself. A private landowner for example, might want to take over a portion of an unopened public road allowance adjacent to his property or he might want to have a road closed in a registered plan of subdivision. The municipality, on the other hand, might be interested in improving its road network by realigning roads or it might be interested in selling off property that is not needed.



As one example, part of the road allowance reserved in the original survey may be swampy, flooded, or perhaps too steep to permit a suitable road to be built. The municipality may wish to close the part of the road allowance that is unsuitable for development and purchase land for an alternative public access to the water.(See Figure 1).

FIG. 1



In some cases, a fairly substantial building may inadvertently be partially located on the road allowance. If it is impractical to move the building, the municipal council may pass a by-law to close part of the road allowance to allow the building's owner to have clear title. As shown in Figure 2, a few feet need to be closed and the rest of the road allowance can remain as public access to the water.

2.2 Municipal Approval FIG. 2

On receipt of an application to close or otherwise alter a public road, a municipality, before approving the necessary by-law, will review the application and consult with certain other relevant agencies and will see that public notice is provided. The steps which may be required before approval of the by-law are as follows:

- (i) Local policy review: The proposal should be evaluated on the basis of any official plan or other adopted council policies which establish the conditions under which such by-laws may be passed. In particular, a municipality may have specific policies establishing the conditions under which public road allowances may be closed and sold in order to ensure that the public interest is protected and that applications are dealt with in a consistent manner.* If such policies are contained in the municipality's official plan, no by-laws may be passed which do not conform with the policy under section 19(1) of The Planning Act.

In reviewing a proposal for a change to a road allowance, the municipality must ensure either that access to abutting properties would not be cut off or that satisfactory alternate arrangements including compensation are made. If no agreement can be reached with affected abutting owners, section 444 of The Municipal Act provides that the matter be decided by arbitration. The form of arbitration is spelled out in sections 341 and 342 of the Act and, unless designated otherwise, the senior judge of the county or district court would be the sole arbitrator.

- (ii) Agency review: The municipality should also circulate the proposed by-law to any agencies which could be affected. Agencies such as Ontario Hydro, Bell Canada and the Ministry of Natural Resources should be contacted to ensure that no arrangements exist which would be violated by such a by-law and to

* See for example, Ministry of Housing pamphlet, Public Road Allowances on or Leading to Water.

identify any concerns the agency might have with the proposed change. If these agencies currently have rights to the use of the subject public right-of-way, in most cases these rights will continue if the road allowance is closed and sold to private interests.

- (iii) County Council consent: In the case of a township under the jurisdiction of a county, a road closing must receive the consent of the county before the appropriate by-law can be adopted by township council. Section 443(6a) of The Municipal Act specifies that the county must be notified, in writing by registered mail or personal service, of the intention to pass a by-law.

The county council then has 60 days to object to the proposal. If no formal objection is lodged within the 60 day period or if the county council consents to the proposal by by-law, the township council may then proceed to pass the road closing by-law (section 443(6c)). If an objection is lodged and agreement cannot be reached between the county and the township, section 443(6b) provides that the matter may be referred to the Ontario Municipal Board whose decision is final. This requirement does not apply to towns or villages under the jurisdiction of a county.

- (iv) Regional or District Council approval: In the case of an area municipality in a regional or district municipality, a road closing by-law requires the approval of the upper tier municipality. The procedure for notification and agreement is laid down in the separate Acts for the regional and district municipalities. This procedure is similar to that required for county approval. The approval should be obtained before the by-law is passed by council, but in any case is required before the by-law can be registered on title.
- (v) Public Notification: Section 446 of The Municipal Act sets down the requirements for public notification and hearings.* Before passing the by-law, notice of it must be published in a local newspaper once a week for four successive weeks. In addition, in a village or township with a population less than 40,000, the notice must be posted for at least one month in six places in the vicinity of the road. (See Appendix A for an example of a public notice.) Council then must hear anyone who claims that they will be prejudicially affected by the proposal. Section 446(2) provides that before public notice is given, reasonable expenses for giving the notice are to be paid to the municipality by the applicant in cases where there is an applicant.

* Note that under section 447 of The Municipal Act, public notification is not required for a by-law for establishing or widening a highway if the owners have consented in writing or if the municipality has already acquired the land.

Care should be taken in the wording of the public notice. The advertisement must be consistent with the proposed by-law. For example, if the by-law provides for both the closure and sale of a road allowance, then the notice must also. If the notice failed to refer to the sale, then the sale by-law could not be adopted by council until after an additional four weeks of advertising. Therefore, in order to minimize advertising costs and to ensure that applications are processed as expeditiously as possible, council should consider how a closed road allowance is to be disposed of at the outset and to make sure the public notice includes the proper information.

2.3 Adoption of the By-law by Municipal Council

Following the above review, the municipal council may adopt the appropriate by-law. Sample by-laws are contained in Appendix B.

2.4 Additional Approvals Required

Before a by-law which has been passed by local council can be registered on title and the changes implemented, further approvals may be required depending on the nature of the by-law.

- (i) Minister of Transportation and Communications: A by-law to open, close or divert a road allowance which connects with a provincial highway (either a King's highway or a secondary highway) must be approved by the Minister of Transportation and Communications (section 22(2), The Public Transportation and Highway Improvement Act). Applications for the approval of the Minister of Transportation and Communications should be addressed to the attention of the Office of Legal Services of that Ministry at 1201 Wilson Avenue in Downsview and should include:

- 2 certified copies of the by-law;
- a brief description of the general location;
- a plan or sketch of the portion of road affected; and
- a brief explanation of the reasons for the application.

The consent of the minister is stamped directly on the certified copy of the by-law. Where Ministry of Housing approval is also required, both approvals are usually stamped on the same certified copy. In this way, only one copy needs to be registered.

- (ii) Federal Government Clearance: In some situations, consent from the Governor General-in-Council is required by section 443(4) of The Municipal Act. When necessary, this consent should be acquired as early in the review process as possible. The Ministry of Housing in reviewing all applications respecting shore road

allowances requires either written consent of the Governor General-in-Council or a statement from the Department of Public Works of Canada that the Government of Canada has no interest in the matter addressed by the by-law. Enquiries should be addressed to the Deputy Minister of Public Works, Public Works Canada, Sir Charles Tupper Building, Confederation Heights, Ottawa, KIA 0M2 - Attention: Land Registry.

- (iii) Judicial Approval: If the by-law involves a road closing and if the municipality is a township in an unorganized territory or a township separated from the county for municipal purposes, the by-law must be approved by a judge in the respective district or county court before it can be registered. (Section 443(6), The Municipal Act). Separated towns do not require this approval.
- (iv) Ministry of Housing Approval: By-laws passed under section 443 of The Municipal Act require the approval of the Minister of Housing in the following situations:
 - (a) if the by-law involves altering, closing or disposing of a road allowance which was reserved on the original survey of land which is located on or leading to water (section 443(3), The Municipal Act); or
 - (b) if the by-law involves altering or closing a road in a registered plan of subdivision (section 443(8), The Municipal Act).

In addition, the approval of the Minister of Housing is required to establish a highway less than 20 metres in width. (Section 450(2), The Municipal Act).

The Minister of Housing will not give approval until all consents or approvals required above have been granted. Under section 8 of The Ministry of Housing Act, this approval power may be delegated by the Minister to specified senior staff in the Ministry. The process for ministerial approval is described more fully in the last section of this guideline.

2.5 By-law Registration

A certified copy of a by-law to open or close a street along with the required approvals must be registered in the local land registry office before the by-law can come into effect or be implemented. (Section 443(9), The Municipal Act).

3. MINISTRY OF HOUSING APPROVAL

3.1 Introduction

As noted above, the approval of the Minister of Housing is needed for by-laws for certain types of road changes. This section explains more fully the conditions under which ministerial approval is required. The contents of applications to the minister are outlined to assist municipalities in assembling the necessary documentation.

3.2 Original Road Allowances on or Leading to Water

Section 443(3) of The Municipal Act requires the approval of the Minister of Housing for by-laws to close, alter and/or dispose of road allowances which were both:

- (a) reserved on the original survey of land; and
- (b) located on or leading to water.

(i) Original Survey: The original survey means the first authorized survey made of the boundaries and interior of any part of Ontario. If there is doubt about the status of the survey, verification should be made with the local registry or land titles office. If the road was not reserved in the original survey, a by-law would not need the minister's approval.

(ii) On or Leading to Water: Road allowances "on water" refer to those rights-of-way running parallel to and abutting the bank of a river or stream or the shore of a lake. The bank or shore is indicated by the surveyed high water mark. "Leading to" water refers to those road allowances extending to the surveyed water's edge. In the original surveys, the normal road allowance width of one chain (20 metres) was often meas-

ured from the established high water mark at that time. Some of these road allowances remain in municipal ownership but have never been opened and are used by abutting cottage owners.

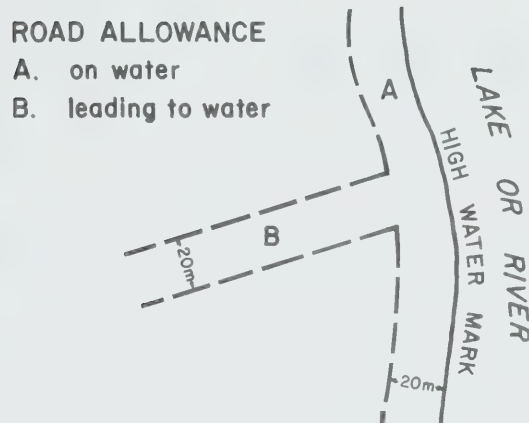


FIG. 3

- (iii) Separate Disposal By-law: Not only is the approval of the Minister required for by-laws to close or alter such road allowances but it is also required for the disposal of the land - whether by sale or by lease for more than 30 years. Because approval may be given for the proposed closure or alteration but not for the proposed method of disposal, municipalities may choose to pass two separate by-laws. In this way, if the minister should decide, for example, that approval to close a road allowance can be given only if it is retained by the municipality, then a by-law indicating both closing and sale would not be acceptable. A new by-law would have to be passed indicating only the closure.
- (iv) Evaluation of Application: The province's main concern in evaluating such a road closing application is the preservation of public access to Ontario's waterways and conformity with any local official plan policies on road closings. Applic-

ations for approval of such a by-law should give the reasons why the closing of the road is necessary and what alternate public access would be available for public use. If suitable alternate access is considered necessary and cannot be provided, then the application will normally not be recommended for approval.

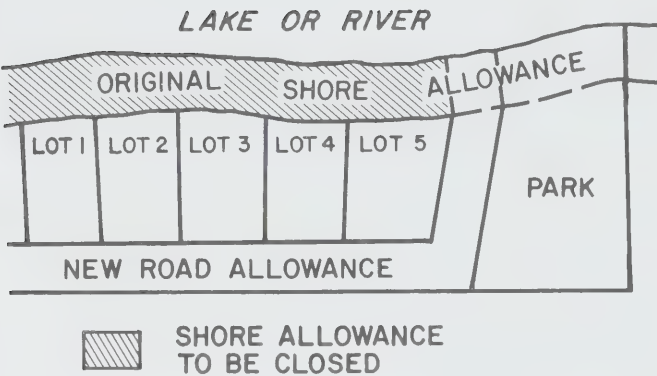


Figure 4 shows an example where approval could be given. The shore road allowance is rocky and not suitable for public use. The subdivider has dedicated a new road allowance and a park with water access. The funds received from the closure of the road would be put into a special account under section 461(4) of The Municipal Act and used pursuant to section 33(11) of The Planning Act.

FIG. 4

The province is also concerned with the protection of important environmental areas. Consequently, the existence of sensitive environmental features such as wildlife or plant habitat or of significant historic or cultural features would be considered.

In addition, the minister would not normally approve the sale of any portion of a road allowance below the natural or regulated high water mark. Therefore, the by-law should be worded in such a way that the sale of only the portion of the road allowance above the high water mark is authorized. (See example 2 in Appendix B). If lands which were subject to flooding or other hazards were to be sold, construction or the placement of fill should be to the satisfaction of the local Conservation Authority or the Ministry of Natural Resources.

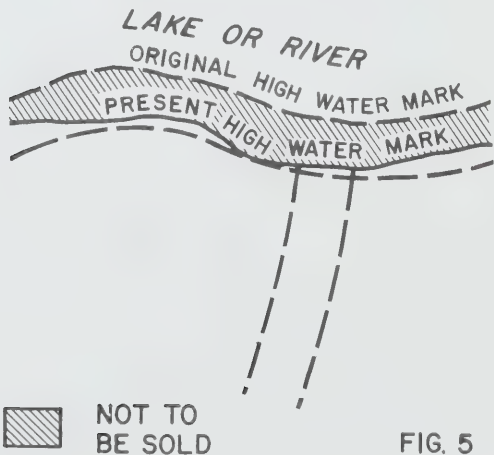


FIG. 5

3.3 Road Allowances in Registered Plans of Subdivision

Road allowances in registered plans of subdivision can be closed or altered by by-law under section 443(1) of The Municipal Act or by judge's order. The approval of the Minister of Housing is required in both cases.

- (i) Non-binding Plans: No official action is required to close a road in a registered plan until that registered plan is "binding". Section 78(10) of The Registry Act and section 167(4) of The Land Titles Act specify that a registered plan is not binding until a mortgage or deed for any part of the subdivision has been registered on title. Until that time, the landowner is not committed to the subdivision and the road dedication has not occurred.
- (ii) A Judge's Order: After a plan of subdivision has become binding but before the subject road has been assumed by the municipality*, the municipality may apply to a local county or district judge to close or alter the road. The judge is empowered to make these changes under section 86 of The Registry Act. This section also applies to land registered under The Land Titles Act pursuant to section 163 of that Act. Under section 86(4) of The Registry Act, if the plan of subdivision was approved under The Planning Act, the consent of the Minister of Housing is required before the judge can consider the request. The minister's consent is not needed for any other type of plan including compiled plans and any plans approved and registered before the first Planning Act in 1946.

Although the judge is empowered to consider a wide range of changes, section 86(1)(c) of The Registry Act deals specifically with the matter of roads and gives the judge authority to close, divert, or alter, either permanently or temporarily, highways, roads, streets, and lanes shown on registered plans. Judge's orders are used to close road allowances which have been dedicated because the subdivision plan is binding but not yet assumed by the municipality. Section 57 of The Surveys Act specifies that such a road allowance closed by judge's order belongs to the abutting land owners.

- (iii) Section 443(8), The Municipal Act: In order to close or alter a road in a plan of subdivision once the road has been assumed by a municipality, a by-law must be passed. Under section 443(8) of The Municipal Act, ministerial approval of such a by-law is required if the road was on "a registered plan of subdivision

* A dedicated road allowance is not assumed by a municipality until that municipality takes some action to accept the road. Such action would include passing a by-law or undertaking work on the right-of-way.

registered after the 27th day of March 1946". Because of this wording of the legislation, the minister's approval is required for by-laws affecting Registrar's Compiled Plans, Judge's Compiled Plans and Municipal Compiled Plans registered after 1946 as well as for plans approved under The Planning Act. If the municipality chooses to sell such a closed road allowance, section 461 of The Municipal Act specifies that abutting owners have the first right to purchase the closed right-of-way at a price fixed by council.

- (iv) Evaluation of Application: Regardless of the procedure followed to close or alter a road in a plan of subdivision, the application to the minister for approval will be evaluated on similar grounds.

In general terms, the province will be interested in ensuring that the public interest is served in the development of the subject land. Specifically, any review would include the following considerations:

- (a) whether the subject public road allowance can reasonably be expected to be needed for future road purposes or other public purposes;
- (b) the suitability of the use proposed for the closed road allowance; and
- (c) the adequacy of the alternate access proposed to any lots in the subdivision from the nearest public highway if required.

In the case of a section 443 by-law, approval is given directly on the certified copies of the by-law. In the case of a judge's order, approval is given by means of a consent document. (See Appendix C for a sample of a consent). Note that the minister's approval is not required for the sale or lease of a public road allowance in a registered plan.

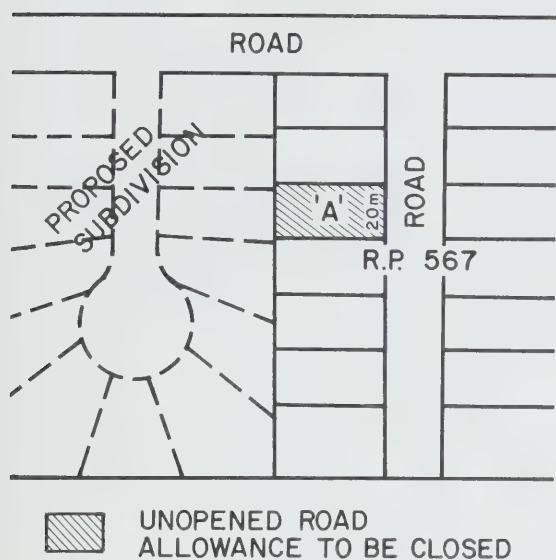


FIG. 6

Figure 6 demonstrates one example where a road closing in a plan of subdivision could be approved. A plan of subdivision was registered with a short stub of road allowance "A" left for a future connection with adjacent development. The municipality had done some preliminary work on the right-of-way and had thereby assumed the road allowance. The adjacent land was subsequently developed without requiring a connection. Because the road allowance "A" will not be needed, a by-law can be passed by council to close and sell it.

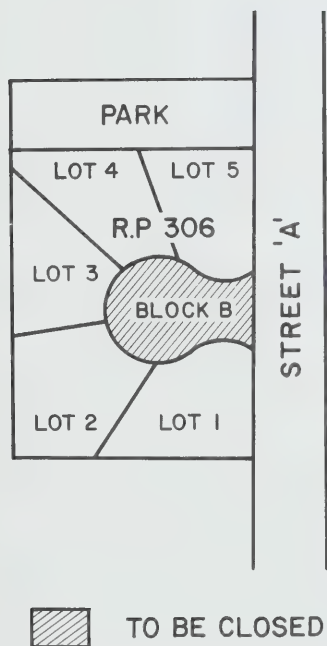


FIG. 7

Figure 7 illustrates a situation where a plan of subdivision has been registered but never developed. It is binding because the park space has been deeded to the municipality. Since the road has not been assumed, the municipality can apply for a judge's order to close the road. The property then can be developed as one parcel under the provisions of the zoning by-law.

3.4 Contents of Applications to the Minister

- (i) Applications for By-laws under Section 443,
The Municipal Act: Applications to the minister for approval of any by-law under section 443 of The Municipal Act should contain the documentation listed in Table 2. Because the circulation requirements vary, the number of copies required differs depending on whether the by-law relates to an original shore road allowance (section 443(3)) or to a road in a plan of subdivision (section 443(8)). These numbers are indicated in the columns on the right of the Table.
- (ii) Applications for consent under Section 86,
The Registry Act: The municipality must apply to the minister for his written consent before applying to a judge to alter a road. The request for this consent should include:
 - a resolution from the council indicating that judge's approval to close the road is being sought, and requesting the minister's consent;
 - an explanation of why the road is being closed and information on alternative access; and
 - a copy of the registered plan with the Registrar's signature on it.

TABLE 2

CONTENTS OF APPLICATION TO MINISTER FOR APPROVAL

Check List	Documentation	Number of Copies	
		Shore Road s.443(3)	Subdivision s.443(8)
	1. Written statement of reasons for the proposed by-law and explanation of the provisions for alternate public access, if required.	1	1
	2. Declaration by municipal clerk that all statutory requirements have been satisfied, explaining the fulfillment of the following: - access to abutting lands (s.444, The Municipal Act) - public notice (s.446(1) (a), The Municipal Act) - public hearing (s.446(1) (b), The Municipal Act) - notification to county, region or district, where required (s.443(6a,b,c), The Municipal Act or specific Regional or District Act)	1	1
	3. (a) Original by-law	1	1
	(b) Certified copies of by-law	2	2
	4. Certified copy of county consent by-law if one was adopted (s.443(6c), The Municipal Act)	1	1
	5. (a) Copy of newspaper advertisement	1	1
	(b) Copy of posted notice, if required (s.446(1), The Municipal Act)	1	1
	6. (a) Plan prepared by registered land surveyor of road affected	6	n/a
	(b) Copy of relevant registered plan	n/a	1
	(c) Plan of street to be closed/alterd	n/a	1

TABLE 2 (Cont'd)

CONTENTS OF APPLICATION TO MINISTER FOR APPROVAL

Check List	Documentation	Number of Copies	
		Shore Road s.443(3)	Subdivision s.443(8)
	7. Copy of written legal description of affected portion of road (in addition to the description in the by-law)	6	not required
	8. Consent of Governor General-in-Council or statement from Public Works Canada that it has no interest in by-law. (s.443(4), The Municipal Act)	1	1 if required
	9. Approval of Minister of Transportation and Communications, if required (s. 22(2), The Public Transportation and Highway Improvement Act)	1	1
	10. Approval of county or district judge, if required (s.446(6), The Municipal Act)	1	1
	11. Any replies from other agencies consulted during review process (include copy of request for comments).	1	1

3.5 Establishing Roads Less than 20 Metres in Width

- (i) The Legislation: Under section 450(2) of The Municipal Act, the approval of the Minister of Housing is required for municipal council to establish a road which is less than 20 metres in width in any municipality. This provision does not apply to any road in a registered plan of subdivision which would be dealt with under The Planning Act. Because of the wording of this section, the minister does not have to approve the by-law itself. Rather, the municipal council would forward a resolution requesting approval for laying out such a road. On receiving the minister's approval, the municipality could then pass a by-law establishing the road.
- (ii) Evaluation of Application: The minimum road width conventionally considered acceptable has been 20 metres. This width has been considered necessary to provide sufficient space for pavement plus a boulevard for sidewalk and utilities. There may sometimes be situations, however, where because of physical constraints it simply is not possible to provide a 20 metre right-of-way. In addition, some recent studies have identified situations where a smaller right-of-way which incurs lower costs would be sufficient and, therefore, acceptable.* However, such roads should generally be planned and implemented through the subdivision process. In this way necessary control on abutting land uses can be assured.

When this is not possible, such a road may be approved by the Minister of Housing under section 450(2) of The Municipal Act and subsequently established by by-law under section 443(1) of the same Act.

In reviewing an application for such a road, the following aspects would be considered:

- (a) the appropriateness and sufficiency of land use controls on properties abutting the proposed road;
- (b) the function of the proposed road and the associated type and amount of traffic to be carried; and
- (c) the adequacy of the road design including the pavement width and location and the utility layout.

* See Ministry of Housing, Urban Development Standards and Urban Development Standards: A Detailed User Survey

(iii) Application: The request for approval of the minister under section 450(2) should include the following information:

- (a) a copy of a resolution from council requesting approval to lay out such a road;
- (b) a plan showing the proposed road allowance accompanied by the legal description;
- (c) a report from the engineering department, the planning board, or the planning committee giving reasons for the proposed road width; and
- (d) an indication from the Ministry of Transportation and Communications as to whether a future subsidy for maintenance would be available if approval is given.

Approval is given by special letter. (See Appendix D).

4. CLOSING ROADS IN UNORGANIZED TERRITORIES

In unorganized territories (i.e. areas without municipal organization), the public road allowances are under the jurisdiction of the Crown. These road allowances may be closed and sold or leased pursuant to section 464 of The Municipal Act. Changes to these road allowances require an Order-in-Council and applications are administered and reviewed by the Ministry of Natural Resources.

If an owner of land which abuts a public road allowance wished to purchase a portion of that road allowance, a proposal should be presented to the local Ministry of Natural Resources District Manager. The district manager would review the application, consult with neighbouring property owners and make a recommendation to the regional manager. The applicant landowner would have to provide a survey plan at his expense if the proposal were accepted. There would also be a purchase price or a rental fee charged for the land. The Letters Patent would be issued on the receipt of the Order-in-Council signed by the Lieutenant Governor-in-Council.

It should be noted that, in some cases, land which may resemble a 20 metre shoreline road allowance may actually be designated as a block on a Crown Shoreline Reserve. In such a case, the process involved is similar but disposition is made under section 19 of The Public Lands Act.

APPENDICES

Sample Public Notice

CORPORATION OF THEOF.....

P U B L I C N O T I C E

TAKE NOTICE that the Council of the Municipal Corporation of the
.....of.....proposes to enact By-laws to stop up, close
(and lease) (and sell or lease) that part of the original allowance for
road set out and described as follows:

The proposed By-laws will come before the said Council for
consideration at its regular meeting atOffice,
in theof.....on theday of
.....19 , at the hour ofo'clock.....
and at that time, the Council will hear in person or by his counsel,
solicitor or agent, any person who claims that his land will be
prejudicially affected and who applies to be heard.

DATED:

Clerk of the Corporation of the
.....of.....

Example 1: Standard By-law

THE MUNICIPAL CORPORATION OF THE OF

BY-LAW NO.

To close and stop up part of the original
road allowance in Lot in Concession
of

WHEREAS it is deemed expedient in the interest of the Municipal Corporation
of of , hereinafter called the Corporation, that the
original unopened road allowance set out and described in Schedule "A"
attached hereto be closed and stopped up; and the land sold to the adjoining
land owners; AND WHEREAS notice of this By-law has been published once
a week for four successive weeks in the , a Newspaper published
in the of ;

AND WHEREAS notice of this has been posted up for at least one month, in
six of the most public places in the immediate neighbourhood of the said
unopened road allowance;

AND WHEREAS the Council for the said Corporation has heard in person or by
his counsel, solicitor or agent, all persons claiming that their land will
be prejudicially affected by this By-law and who applied to be heard.

NOW THEREFORE, the Council of the of enacts as
follows:

1. That upon and after the passing of this By-law all that portion of the
66 foot allowance for the road set out and described in Schedule "A"
attached hereto, be and the same is hereby closed and stopped up.
2. All that part of the said unopened road allowance herein before des-
cribed and stopped up shall be sold to the adjoining owner or owners or any
of them.
3. The and Clerk of the Corporation of the of
are hereby authorized to sign or execute such deeds or other documents as
may be necessary to effect conveyance of that part of the said unopened
road allowance herein before described and which has been stopped up and
closed.

Passed.....

Reeve or Mayor

Clerk

Example 2: Alternate Wording to Authorize Sale Only of
Land Above High Water Mark

(standard preamble)

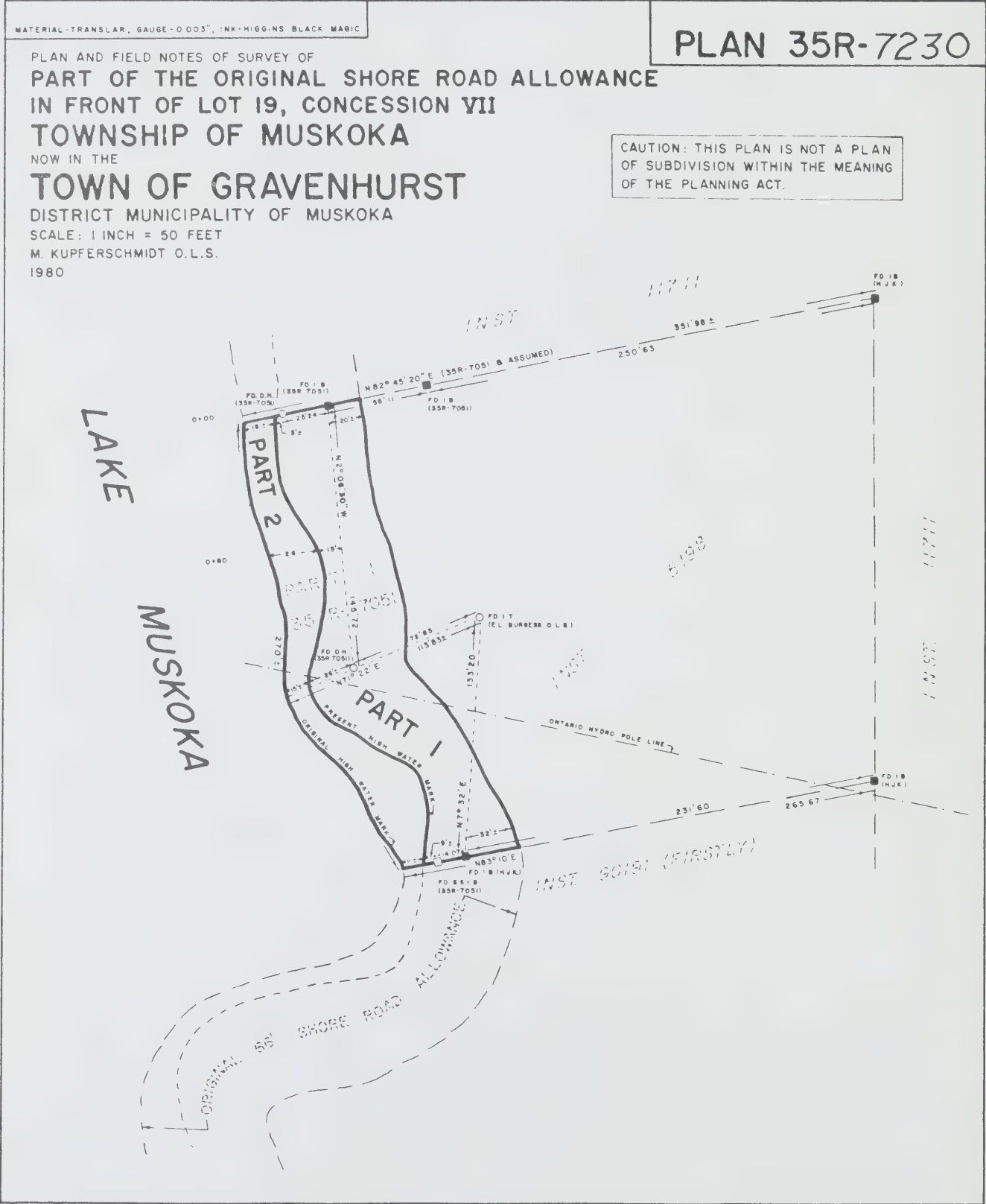
NOW THEREFORE, the Council of the of
enacts as follows:

1. That upon and after the passing of this By-law all that portion of the 66 foot road allowance for the road set out and described as Parts 1 and 2 in Schedule "A" attached hereto, be and the same is hereby closed and stopped up.

2. All that part of the said unopened shore road allowance shown as Part 1 in Schedule "A" herein before stopped up shall be sold to the adjoining owner or owners or any of them.

3. The and Clerk of the Corporation of of are hereby authorized to sign or execute such deeds or other documents as may be necessary to effect conveyance of that part of the said road allowance herein before described and which has been stopped up and closed.

Example 3: Illustration of Schedule showing portion of shore road allowance above high water mark as Part 1



APPENDIX C

SAMPLE MINISTRY OF HOUSING
APPROVAL UNDER Section 86 OF THE REGISTRY ACT

PURSUANT TO SUBSECTION 4 OF SECTION 86 OF THE REGISTRY ACT
AND SECTION 163 OF THE LAND TITLES ACT. CONSENT IS HEREBY
GIVEN TO THE AMENDMENT OF REGISTERED PLAN NUMBER _____
BY CLOSING PART OF _____ STREET MORE PARTICULARLY
DESCRIBED AS BEING PARTS _____ ON PLAN _____
DEPOSITED IN THE LAND REGISTRY OFFICE AT _____
ON _____, 19____. ALL WITHIN THE _____
OF _____ IN THE _____.

DATED AT TORONTO THIS _____ DAY OF _____ 19____.

Minister of Housing

SAMPLE LETTER OF APPROVAL
UNDER SECTION 450(2) OF
THE MUNICIPAL ACT

Subject: Application to Establish a Road
as a Public Highway Under
Section 45 of The Municipal Act

Dear Sir:

This will acknowledge receipt of your letter of
with enclosures requesting approval to establish a road allowance at a
width of only metres.

Approval is hereby given under section 450 of The Municipal Act to the
establishment of a public highway to be known as.....
extending from to on lands being
part on Plan all within the
in the

Yours sincerely,

Minister of Housing

